

Before the Board of Zoning Adjustment, D.C.

PUBLIC HEARING - November 8, 1972

Application No. 11074 - Alexandre G. Marcotte, appellant

THE ZONING ADMINISTRATOR OF THE DISTRICT OF COLUMBIA, appellee

On motion duly made, seconded and carried, with Messrs. Hatton and Mackey absent, the following Order of the Board was entered at the meeting of December 12, 1972.

ORDERED:

That the application for variance from the rear yard requirements of the R-4 District to permit 2nd floor addition to single family dwelling at No. 7 9th Street, S.E., Lot 817, Square 920, be DENIED.

FINDINGS OF FACT:

1. Subject property is located in an R-4 District which is defined by the Zoning Regulations as an area of row dwellings and conversions.
2. Subject property is presently improved by a two-story, one bedroom home, which accommodates a single family.
3. Applicant herein seeks this variance pursuant to Section 8207.11 of the Zoning Regulations which necessitates the Board to make a finding that undue hardship will befall applicant if in fact the Board denies this request.
4. It is applicant's testimony that the home, one bedroom, is obsolete for his family. It is small and not functional, and with the requested variance, applicant could add another bedroom on the second floor.
5. Applicant further notes that the structure, with the air gap between buildings, poses a fire hazard. Applicant is eager also to improve the appearance of the structure.
6. At the public hearing on November 8, 1972, applicant related to the Board that the addition requested had already been erected.

7. The Zoning Regulations obligate the applicant-owner to first seek Board permission before he secures an area variance then he is free to begin construction of the proposed addition.

8. No opposition to the subject application herein was voiced at the public hearing, rather letters and petitions in support of the proposal were submitted to the file for the Board's consideration.

OPINION:

The facts relate to this Board that the applicant herein is in urgent need of an area variance in order to erect a small second story addition to his house. This Board is authorized to grant such variances only upon the requisite showing of hardship by the applicant. We are of the opinion in the present case, this is lacking.

The Board concedes that the practical difficulties and hardship declared by the applicant are not without merit. However, it has become increasingly evident to the members of this Board that applicant became cognizant of his illegal status soon after beginning construction, and yet continued "knowingly" in that status.

An adage that has obtained credit and force by long use is especially applicable. "He who will have equity or comes hither for equity, must do equity." Equity has been known to bend for persons and so too this Board. There is no showing of innocent acts by the applicant herein, rather the testimony reflects applicant's intent to continue construction and then seek this Board's ratification of the project.

We are of the opinion that applicant has not proved a hardship within the meaning of the variance clause of the Zoning Regulations and that a denial of the requested relief will not result in peculiar and exceptional practical difficulties and undue hardship upon the owner.

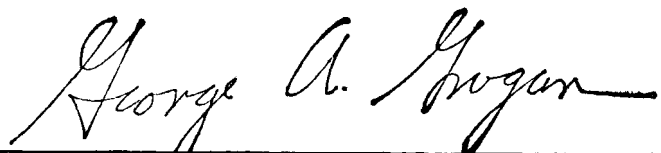
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Further, we hold that the requested relief cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED:

By 
GEORGE A. GROGAN
Secretary of the Board

January 31, 1973